



**Billing Code 6325-63**

**OFFICE OF PERSONNEL MANAGEMENT**

**5 CFR Part 870**

**RIN: 3206-AM67**

**Federal Employees' Group Life Insurance Program: Court Orders Prior to July 22, 1998**

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing this final regulation to adopt as final the interim final regulation published on December 4, 2012. The regulation implements section 8705 of title 5, United States Code regarding the effect of any court decree of divorce, annulment, or legal separation, or any court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation (hereinafter “court order”) where the court order expressly provides that an individual receive Federal Employee's Group Life Insurance (FEGLI) benefits. The regulations will allow court orders submitted to the appropriate Federal agency before July 22, 1998 to be effective for providing FEGLI benefits if the court order was received in the appropriate office before the insured Federal employee's or annuitant's death. This revision does not affect the current statutory limitation that court orders apply only when FEGLI benefits are based on insured individuals who died on or after July 22, 1998.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Marguerite Martel, Senior Policy Analyst, at (202) 606-0004 or e-mail: marguerite.martel@opm.gov.

**SUPPLEMENTARY INFORMATION:** Public Law 105-205, 112 Stat. 683, enacted July 22, 1998, amending section 8705 of title 5, United States Code, required benefits to be paid in accordance with the terms of a court order instead of the otherwise existing statutory order of precedence for payment of benefits under FEGLI. On October 8, 1999, OPM published a final regulation interpreting the law to mean that only those court orders received in the appropriate office after the date the law was enacted would be valid to name a FEGLI beneficiary. The regulation amended section 870.801(d)(2), of title 5, Code of Federal Regulations.

Based on *Pascavage v. Office of Personnel Management*, 773 F. Supp.2d 452 (D. Del. 2011), OPM is changing this regulation to provide FEGLI benefits based on court orders submitted to the appropriate Federal agency before July 22, 1998, so long as the court order was received in the appropriate office before the insured Federal employee's or annuitant's death. This change is consistent with the settlement agreement in this case, *Pascavage v. Office of Personnel Management*, C.A. No.: 09-276-LPS-MPT (D. Del. filed Aug. 6, 2012)<sup>1</sup>. This revision does not affect the current statutory limitation that court orders apply only when FEGLI benefits are based on insured individuals who died on or after July 22, 1998. On December 4, 2012, OPM published an interim final regulation at 77 FR 71687. We received no comments on the interim final regulation. Therefore, **OPM is adopting the interim final regulation with no changes.**

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<sup>1</sup> The settlement agreement has been preliminarily approved by the Court.

**Regulatory Impact Analysis**

OPM has examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any one year. This rule is not considered a major rule because OPM estimates there are relatively few court orders received by the appropriate office before July 22, 1998.

**Paperwork Reduction Act**

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13.

**Regulatory Flexibility Act**

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal employees, annuitants and their former spouses.

## **List of Subjects in 5 CFR Part 870**

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

U.S. Office of Personnel Management.

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Beth F. Cobert,  
Acting Director.

## **PART 870--FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM**

Accordingly, the interim rule amending 5 CFR part 870 which was published at 77 FR 71687 on December 4, 2012, is adopted as a final rule without change.

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